

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**  
825 North Capitol Street N.E., Suite 5100  
Washington D.C. 20002

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

BIG RED L.T.L. TRANSPORT, INC.  
Respondent

Case No.: I-00-11094  
I-00-11126

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**ORDER DENYING MOTION FOR RECONSIDERATION**

On May 23, 2001, Respondent filed a motion for reconsideration of the order of May 11, 2001, which imposed the statutory penalty of \$500.00 for Respondent's failure to file a timely answer to the first Notice of Infraction (No. 00-11094). On May 25, 2001, I issued an order permitting the Government to respond to that motion within ten days. No response has been received.

Respondent makes two arguments in support of its motion for reconsideration. First, it states that the driver terminated his employment on February 27, 2001, the day after the incident, and never notified anyone of the possible infraction. Based upon the certificate of service, however, the first Notice of Infraction was served upon Respondent by mail on March 9, 2001, ten days after the driver left. Thus, this is not a case of a driver failing to turn over a Notice of Infraction to company management, and the driver's termination of employment did not affect in any way the timing of Respondent's receipt of the Notice of Infraction.

Second, Respondent's president states that he is responsible for administration and payment of fines but that, due to an ongoing driver shortage, he also must drive a truck when necessary. He states that his absence from the office due to his driving responsibilities and other unspecified "scheduling conflicts" caused him to fail to file a timely response.

Respondent's plea was due on March 29, 2001. The plea was not received in the Clerk's office until May 1, 2001, more than a month after it was due and almost three weeks after issuance of a default order on April 13, 2001. Respondent has an obligation to arrange its business affairs to ensure timely responses to communications from government agencies regulating its business. Respondent has failed to demonstrate that it had adequate arrangements in place to fulfill that responsibility in light of its president's regular absences from the office, whether due to his driving responsibilities or other "scheduling conflicts," whatever they might be. While an unforeseen staffing emergency might justify a slight delay in responding to the Notice of Infraction, Respondent has failed to show that this was the case. Accordingly, it has not demonstrated "good cause" for its failure to file a timely answer, as required by D.C. Code § 6-2712(f). The \$500.00 penalty imposed by the May 13 order, therefore, shall stand.

For the foregoing reasons, it is, this \_\_\_\_\_ day of \_\_\_\_\_, 2001:

**ORDERED**, that Respondent's motion for reconsideration is **DENIED**; and it is further

**ORDERED**, that Respondent shall pay a total of **FIVE HUNDRED DOLLARS (\$500.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715); and it is further

**ORDERED**, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Code § 6-2713(f), the placement of a lien on real and personal property owned by Respondent pursuant to D.C. Code § 6-2713(i), and the sealing of Respondent's business premises or work sites pursuant to D.C. Code § 6-2703(b)(6).

/s/      **6-21-01**

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John P. Dean  
Administrative Judge